

BOARD OF APPEALS CASE NO. 5264

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BEFORE THE

APPLICANT: Dung P. Dinh

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ZONING HEARING EXAMINER

REQUEST: Variances for an existing 24 square foot sign 11 feet high within the road right-of-way; 100 Red Pump Road, Bel Air

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/26/02 & 7/3/02

HEARING DATE: August 5, 2002

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Record: 6/28/02 & 7/5/02

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Dung P. Dinh, is requesting a variance pursuant to Section 219-13B of the Harford County Code, to allow an internally illuminated freestanding sign more than the allowed eight (8) feet in area (24 feet requested) and more than the allowed maximum height of six (6) feet in height (11 feet requested); and a variance pursuant to Sections 219-5B and 219-14B of the Harford County Sign Code, to allow the sign within the County right-of-way in an RO/Residential Office District.

The subject parcel is located at 100 Red Pump Road, Bel Air, MD 21014 and is more particularly identified on Tax Map 40, Grid 3E, Parcel 304, Lot 6. The parcel consists of .42± acres, is zoned RO/Residential Office and is entirely within the Third Election District.

The Applicant, Ms. Dung P. Dinh, appeared and testified that she operates a manicure business from the property. The witness indicated that her business used to be located elsewhere and when she moved she wanted to make sure she could attract new business to her location. The existing sign is a backlit sign that stays lit 24 hours per day, 7 days per week. The witness indicated that she keeps it lit for security purposes. The sign is visible from Red Pump Road and MD Route 24. There is a McDonald's and a shopping center as well as a gas station in close proximity to the subject property. There are also residential homes adjacent to the subject property. The witness stated that her property is not particularly unique, that it looks like a residential home and that without the sign, her business would not be visible and it would be hard to find. The witness has obtained a permit for a sign that meets the requirements of the Code and would not require any variances, however, she would prefer to keep the existing sign.

Case No. 5264 – Dung P. Dinh

Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning (Department). In recommending denial, Mr. McClune explained that this is a transition zoning classification that is intended to separate residential and commercial uses. It is the position of the Department that the existing sign is not compatible with the residential neighborhood and if allowed to continue in this manner at this location ignores and obfuscates the purposes of the Zoning Code. Mr. McClune explained that small signs are allowed in the RO district as this is a “destination district” Patrons of businesses in the RO zone are intended to be those who are already making their way to the business but the sign serves as a locator. In the instant case, the sign appears to be more of an advertising tool, a purpose generally associated with commercial and business districts. Mr. McClune pointed out that there are no unique features of this parcel compared to any other parcels in the immediate vicinity.

There were a number of persons that appeared in opposition to this request. James Hayes, Harry Oley, Gordon McPhee and William Linderborn, Jr. each appeared and testified that they objected to this sign at this location. Their testimony was generally the same in that each lives in the area and either drives by the sign each day or lives close enough to see the sign all of the time. It is a large, obtrusive sign that stays lit all of the time. Each of the witnesses stated that it was incompatible with the residential uses in the neighborhood. Each was concerned that allowance of this sign could lead to a further proliferation of neighborhood signage and could begin to devalue neighborhood real estate. Eleven other neighbors indicated their opposition to the request and stated that they had no additional reasons other than those summarized above.

CONCLUSION:

The Applicant is requesting a variance pursuant to Section 219-13B of the Harford County Code, to allow an internally illuminated freestanding sign more than the allowed eight (8) feet in area (24 feet requested) and more than the allowed maximum height of six (6) feet in height (11 feet requested); and a variance pursuant to Section 219-5B and 219-14B of the Harford County Sign Code to allow the sign within the County right-of-way in an RO/Residential Office District.

Case No. 5264 – Dung P. Dinh

Section 219-13B provides:

“Residential/Office district (RO).

- (1) The following signs shall be allowed:**
 - (a) One freestanding sign per parcel, which shall have a maximum of eight square feet in area, shall be no more than six feet in height and shall be laced perpendicular to the road; and**
 - (b) A wall sign for each use, which shall be attached only to the front of a building, shall be adjacent to the front entryway and shall be no larger than four square feet in area.**
- (2) Freestanding and wall signs shall be constructed of wood, brass or bronze and shall not be internally illuminated. Both freestanding and wall signs may be externally illuminated.**
- (3) Signs shall be constructed in an unobtrusive manner which compliments the architectural element of the building and reflects the architectural period of the building.**
- (4) Temporary signs shall be prohibited in the RO District.**

Section 219-14B provides:

“Except as provided in § 219-7A, signs which are placed within the county or state right-of-way are prohibited and shall be removed immediately by the enforcement officer or the appropriate highway authority.”

Section 219-5B provides:

“Freestanding signs. A freestanding sign shall include any sign supported by uprights or braces placed upon the ground and not attached to any building. Business signs may be freestanding if the property has a minimum of forty (40) feet of road frontage. The sign area shall be calculated on the basis of one (1) square foot of sign for every foot of property road frontage. However, the maximum area of any freestanding sign shall not exceed two hundred (200) square feet. The setback measured to the edge of the sign shall be equal to one-third (1/3) of the required building setback. Unless otherwise provided herein, the maximum height allowed for any freestanding sign is thirty-five (35) feet above the nearest public road grade.”

Case No. 5264 – Dung P. Dinh

Variances from the provisions of the Harford County Sign Code may be granted only in conformity with the provisions of Harford County code Section 219-17 which provides as follows:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

No evidence was presented to the Hearing Examiner that could lead to the conclusion that the subject parcel is unique. In fact, the testimony of the witness was that the subject property was not unique in any way. The Department of Planning and Zoning agreed and concluded that there were no topographical features unique to this parcel that would justify the granting of the variance.

Moreover, the only hardship associated with a denial, according to the Applicant, is that potential customers would not see here sign and be attracted to her business. It seems evident that this sign is intended as advertising and not as the “locator” in a “destination zone” as contemplated by the Code.

This zoning classification is a buffer zone intended to buffer residential uses from commercial uses and serves a transition purpose. Allowance of a sign that is commercial in appearance and is intended as advertising does not serve the purpose of the Code.

For the foregoing reasons, the Hearing Examiner recommends denial of the subject request.

Date: AUGUST 26, 2002

William F. Casey
Zoning Hearing Examiner